



February 23, 2007

---

## SENATE BILL No. 339

---

DIGEST OF SB 339 (Updated February 21, 2007 4:36 pm - DI 110)

**Citations Affected:** IC 7.1-1; IC 7.1-3; IC 7.1-4; IC 7.1-5; IC 35-46.

**Synopsis:** Alcoholic beverage matters. Defines "grocery store" for purposes of the law concerning alcohol and tobacco. Allows the alcohol and tobacco commission (ATC) to renew or transfer ownership of a beer dealer's permit for a beer dealer who: (1) held a permit before July 1, 2007; and (2) does not qualify for a permit as a grocery store. Requires a liquor dealer permittee (other than a package liquor store) to display alcohol in a clearly designated area where the presence of a minor is prohibited without a parent or guardian who is at least 21 years of age. Requires the ATC to collect an annual registration fee of \$1,000 for a primary source of supply for deposit in the enforcement and administration fund. Requires the ATC to conduct random unannounced inspections of locations where alcoholic beverages are sold or distributed. Allows a person at least 18 years of age and less than 21 years of age to receive or purchase alcoholic beverages as part of an enforcement action. Reduces the number of beer dealer permits authorized by the quota that may be issued within a city or town. Provides for graduated civil penalties against a permittee for repeat violations of furnishing alcohol to a minor on the licensed premises.

**Effective:** July 1, 2007.

---

---

### Riegsecker

---

---

January 11, 2007, read first time and referred to Committee on Rules and Legislative Procedure.

February 8, 2007, amended; reassigned to Committee on Commerce, Public Policy & Interstate Cooperation.

February 22, 2007, reported favorably — Do Pass.

---

---

C  
o  
p  
y

SB 339—LS 7125/DI 13+



February 23, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## SENATE BILL No. 339

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 7.1-1-3-18.5 IS ADDED TO THE INDIANA  
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 2007]: **Sec. 18.5. "Grocery store" means a**  
4 **store or part of a store that:**

5 (1) **has the primary North American Industry Classification**  
6 **System (NAICS) classification 445110, 452910, 445120, or**  
7 **447110; or**

8 (2) **offers for sale all of the following:**

9 (A) **Fine wines.**

10 (B) **Specialty beers.**

11 (C) **Gourmet cooking and wine accessories.**

12 (D) **Meats.**

13 (E) **Cheeses.**

14 (F) **Packaged specialty foods.**

15 SECTION 2. IC 7.1-3-5-4 IS ADDED TO THE INDIANA CODE  
16 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
17 1, 2007]: **Sec. 4. Notwithstanding IC 7.1-1-3-18.5, the commission**

SB 339—LS 7125/DI 13+



C  
o  
p  
y

may renew or transfer ownership of a beer dealer's permit for a beer dealer who:

(1) held a permit before July 1, 2007; and

(2) does not qualify for a permit as a grocery store under IC 7.1-1-3-18.5.

SECTION 3. IC 7.1-3-10-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. (a) The holder of a liquor dealer's permit shall be entitled to purchase liquor only from a permittee entitled to sell to a liquor dealer under this title.

(b) A liquor dealer shall be entitled to possess liquor and sell it at retail in its original package to a customer only for consumption off the licensed premises.

**(c) This subsection does not apply to a package liquor store. Liquor shall be displayed in a designated area separated from the area where nonalcoholic retail merchandise is displayed. A minor may not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age. The designated area shall be monitored by an employee who, as part of the employee's job responsibilities, shall ensure that a minor does not enter the designated area without a parent or guardian who is at least twenty-one (21) years of age.**

~~(c)~~ (d) A liquor dealer may deliver liquor only in permissible containers to a customer's residence or office in a quantity that does not exceed twelve (12) quarts at any one (1) time. However, a liquor dealer who is licensed under IC 7.1-3-10-4 may deliver liquor in permissible containers to a customer's residence, office, or designated location. This delivery may only be performed by the permit holder or an employee who holds an employee permit. The permit holder shall maintain a written record of each delivery for at least one (1) year that shows the customer's name, location of delivery, and quantity sold.

~~(d)~~ (e) A liquor dealer may not sell or deliver alcoholic beverages or any other item through a window in the licensed premises to a patron who is outside the licensed premises. However, a liquor dealer that is a drug store may sell prescription drugs and health and beauty aids through a window in the licensed premises to a patron who is outside the licensed premises.

SECTION 4. IC 7.1-3-22-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. ~~Dealers' Permits Limited:~~ (a) The commission may grant ~~only one~~ (1):

(1) beer dealer's permit **in an incorporated city, town, or unincorporated town for each four thousand (4,000) persons, or fraction thereof, within the incorporated city, town, or**

C  
o  
p  
y



1 **unincorporated town; and one (1)**

2 **(2) liquor dealer's permit in an incorporated city, town, or**  
 3 **unincorporated town for each one thousand five hundred (1,500)**  
 4 **persons, or fraction thereof, within the incorporated city, town, or**  
 5 **unincorporated town.**

6 **(b) Notwithstanding subsection (a), the commission may renew**  
 7 **or transfer a beer dealer's or liquor dealer's permit for a beer**  
 8 **dealer or liquor dealer who:**

9 **(1) held a permit before July 1, 2007; and**

10 **(2) does not qualify for a permit under the quota restrictions**  
 11 **in subsection (a).**

12 SECTION 5. IC 7.1-4-4.1-1 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. The alcohol and  
 14 tobacco commission shall issue an annual registration of a primary  
 15 source of supply (as defined in IC 7.1-1-3-32.5) ~~without charge~~ **for an**  
 16 **annual fee of one thousand dollars (\$1,000). All fees collected under**  
 17 **this section shall be deposited in the commission's enforcement and**  
 18 **administration fund under IC 7.1-4-10.**

19 SECTION 6. IC 7.1-4-7-4, AS AMENDED BY P.L.224-2005,  
 20 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2007]: Sec. 4. (a) Except as provided in subsection (b), the  
 22 chairman and the department shall deposit the money collected under  
 23 sections 1, 2, and 3 of this chapter daily with the treasurer of state, and  
 24 not later than the fifth day of the following month shall cover:

25 (1) thirty-four percent (34%) of the money collected under section  
 26 1 of this chapter into the enforcement and administration fund  
 27 established under IC 7.1-4-10-1; and

28 (2) sixty-six percent (66%) of the money collected under section  
 29 1 of this chapter and money collected under sections 2 and 3 of  
 30 this chapter into the state general fund for state general fund  
 31 purposes.

32 (b) The chairman and the department shall deposit all money  
 33 collected under IC 7.1-2-5-3, IC 7.1-2-5-8, IC 7.1-3-17.5,  
 34 IC 7.1-3-17.7, IC 7.1-3-22-9, **IC 7.1-4-4.1-1**, and IC 7.1-4-4.1-5 daily  
 35 with the treasurer of state, and not later than the fifth day of the  
 36 following month shall cover the money into the enforcement and  
 37 administration fund established under IC 7.1-4-10-1.

38 SECTION 7. IC 7.1-5-7-16 IS ADDED TO THE INDIANA CODE  
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 40 1, 2007]: **Sec. 16. The commission shall conduct random**  
 41 **unannounced inspections at locations where alcoholic beverages**  
 42 **are sold or distributed to ensure compliance with this title. Only**

C  
o  
p  
y



the commission, an Indiana law enforcement agency, the office of the sheriff of a county, or an organized police department of a municipal corporation may conduct the random unannounced inspections. These entities may use retired or off duty law enforcement officers to conduct inspections under this section.

SECTION 8. IC 7.1-5-7-17 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) Notwithstanding any other law, an enforcement officer vested with full police powers and duties may engage a person who is:

(1) at least eighteen (18) years of age; and

(2) less than twenty-one (21) years of age;

to receive or purchase alcoholic beverages as part of an enforcement action under this article.

(b) The initial or contemporaneous receipt or purchase of an alcoholic beverage under this section by a person described in subsection (a) must:

(1) occur under the direction of an enforcement officer vested with full police powers and duties; and

(2) be a part of the enforcement action.

SECTION 9. IC 35-46-1-10.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10.1. (a) If a permittee or an agent or employee of a permittee violates IC 7.1-5-7-8 on the licensed premises, in addition to any other penalty, a civil judgment may be imposed as follows:

(1) If the licensed premises at that specific business location has not been issued a citation or summons for a violation of this section in the previous ninety (90) days, a civil penalty of one hundred fifty dollars (\$150).

(2) If the licensed premises at that specific business location has had one (1) citation or summons issued for a violation of this section in the previous ninety (90) days, a civil penalty of two hundred fifty dollars (\$250).

(3) If the licensed premises at that specific business location has had two (2) citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of five hundred dollars (\$500).

(4) If the licensed premises at that specific business location has had three (3) or more citations or summonses issued for a violation of this section in the previous ninety (90) days, a civil penalty of seven hundred fifty dollars (\$750).

C  
o  
p  
y



1 A permittee may not be issued a citation or summons for a  
2 violation of this section more than once every twenty-four (24)  
3 hours.

4 (b) The defenses set forth in IC 7.1-5-7-5.1 are available to a  
5 permittee in an action under this section.

6 (c) Unless a person less than twenty-one (21) years of age buys  
7 or receives an alcoholic beverage under the direction of a law  
8 enforcement officer as part of an enforcement action, a permittee  
9 that sells alcoholic beverages is not liable for a violation of this  
10 section unless the person less than twenty-one (21) years of age who  
11 bought or received the alcoholic beverage is charged for violating  
12 IC 7.1-5-7-7.

**C  
o  
p  
y**



## COMMITTEE REPORT

Madam President: The Senate Committee on Rules and Legislative Procedure, to which was referred Engrossed Senate Bill No. 339, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning alcohol and tobacco.

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill be reassigned to the Senate Committee on Commerce, Public Policy & Interstate Cooperation.

(Reference is to SB 339 as introduced.)

LONG, Chairperson

## COMMITTEE REPORT

Madam President: The Senate Committee on Commerce, Public Policy and Interstate Cooperation, to which was referred Senate Bill No. 339, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 339 as printed February 9, 2007.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 7, Nays 3.

C  
o  
p  
y

